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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/727,909	11/30/2000	Robert Denton Silfvast	P514	3696

24739 7590 07/27/2004

CENTRAL COAST PATENT AGENCY
PO BOX 187
AROMAS, CA 95004

EXAMINER

GRIER, LAURA A

ART UNIT	PAPER NUMBER
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2644

DATE MAILED: 07/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/727,909

Applicant(s)

SILFVAST ET AL.

Examiner

Laura A Grier

Art Unit

2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-24, 26-36, 39 and 40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-24, 26-34 and 39 is/are rejected.
- 7) ☒ Claim(s) 35 and 40 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. <u>9</u> . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 20-24, 26-28, 32-34, 36, and 39** are rejected under 35 U.S.C. 103(a) as being unpatentable over Janky et al., (herein, Janky) U. S. Patent No. 6549942.

Regarding **claims 20, 32 and 39, respectively**, Janky discloses a system transmitting audio files via the Internet. Janky's disclose comprises an internetwork server coupled with a central library comprising audio/text data files, which reads on a data storage repository and data server, a personal computer, wherein the audio may be downloaded from the PC to a portable storage and playback device via a docking station comprising coupled to the computer (abstract, col. 6, lines 12-40 and col. 3, lines 28-35), which reads a memory dock connected to the host computer; the docking station comprises a PCMCIA card with flash memory; the portable storage and playback unit comprises a memory slot for storing the audio files download to the computer and later playback use, thus the memory card is removable from the host computer (col. 8, lines 9-11) and placed in the electronic device – the portable storage and playback unit (PSU), in which all encompasses the user operating the electronic device connected to the host computer and retrieving audio-effects applications stored thereon, via host computer and the data server. However, Janky fails to specifically disclose downloading audio-effects (herein audio

transmission). The examiner maintains that such audio transmission was well known. Thus it would have been obvious to one of the ordinary skill to incorporate sound effects applications in the audio data files, where the transmitting and/or editing audio by equalization, mixing, etc. are commonly known techniques in the art.

Regarding **claim 21 and 33**, Janky discloses everything claimed as applied above (see claim 20). Janky discloses the use of the Internet.

Regarding **claim 22**, Janky discloses everything claimed as applied above (see claim 20). Janky discloses the docking station with the PSU coupled to the PC (figure 1 and 2).

Regarding **claim 23**, Janky discloses everything claimed as applied above (see claim 20). Janky fails to specifically disclose wireless serial connection. The use of wireless serial connection is well known in the art. Thus it would have been obvious for one of the ordinary skill in the art to modify the invention of Janky by implement wireless serial transmission connection for the transmission of the audio data from one device the another, wherein wireless data transmission is a commonly used technique in the art.

Regarding **claims 24 and 27**, Janky discloses everything claimed as applied above (see claim 20). Janky discloses the docking station having memory coupled to the PC (figure 1 and 2), wherein it obvious the connection is cabled via the second communication module 77 to docking station.

Regarding **claim 26**, Janky discloses everything claimed as applied above (see claim 20). Janky discloses the docking station having memory coupled to the PC (figure 1 and 2).

Regarding **claim 28**, Janky discloses everything claimed as applied above (see claim 20). Janky discloses the PCMCIA card comprising flash memory.

Regarding **claim 34**, Janky discloses everything claimed as applied above (see claim 32).

Janky disclose the connection via the personal computer – host computer.

Regarding **claim 36**, Janky discloses everything claimed as applied above (see claim 32).

Janky disclose the browser application in figure 3.

3. Claims 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Janky et al., in view of Juskiewicz.

Regarding **claim 29**, Janky discloses everything claimed as applied above (see claim 20).

However, Janky fails to disclose audio-effects application as software plug-ins used on the electronic device. The examiner maintains that such software applications were well known in the art.

Regarding the software applications, in a similar field of endeavor, Juskiewicz discloses a universal audio communications and control system and method. Juskiewicz disclosure comprises an amplifier with a DSP (13) and musical instruments, wherein the amplifier provides sound effects applications via software plug-ins to the instruments, wherein the plug-ins are applied to the DSP computer of the amplifier (col. 35, lines 30-34).

It would have been obvious to one of the ordinary skill in the art the time the invention was made to modify the invention of Janky by implementing audio-effects applications as software plug-ins for the purpose of enhancing the sound/audio experts' techniques of processing audio with convenience and better efficiency.

Regarding **claims 30-31**, Janky and Juskiewicz disclose everything claimed as applied above (see claim 20). It obvious that the plug-ins are download from the system memory of the

host computer as obvious by the fact the memory stores and writes audio data files, wherein the memory may be flash memory, ROM, RAM and hard drive.

Allowable Subject Matter

4. **Claims 35 and 40** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments filed 5/13/04 have been fully considered but they are not persuasive.

The applicant's essential argument is directed the Janky et al. reference failing to specifically disclose processing and/or downloading, or the execution thereof, of audio-effects applications. Based upon the applicant's arguments and attorney interaction vis the telephone, the audio-effects applications is intended to indicate the execution of a audio-effects software application, which is saved to memory device and placed and audio electronic device, wherein the audio-effects software application is download to the audio electronic device. However, the claim language of the claim does not provided such an explicit interpretation. From the broadest interpretation of the applicant's claim language, the Janky reference discloses the claimed invention, wherein, saved audio data files on a memory medium for later playback in another

device, reads on storing, retrieving, and downloading an audio application. "Audio-effects application" claim language provides a broad interpretation.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura A Grier whose telephone number is (703) 306-4819. The examiner can normally be reached on Monday - Friday, 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester W. Isen can be reached on (703) 305-4386.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

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Washington, D.C. 20231

Or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding
should be directed to the receptionist whose telephone number is (703) 305-4700.

LAG
July 22, 2004


XU MEI
PRIMARY EXAMINER